

Tribal Written Comments and Reclamation Responses
Draft P.L. 93-638 D&S – NIA 10-01

| Tribe | Section | Comment ¹ | Response | Action |
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| Colorado River Indian Tribes | General | The proposed addition to the Directives and Standards sets out Reclamation’s process for 638 contracts. We have 638 contracts with Reclamation and appreciate that you are making the contracting process uniform within Reclamation. It would be more helpful for us if the 638 contracting process is uniform within the Department of Interior. | The procedures in the D&S are consistent with the Pub. L. 93-638 statutory and regulatory processes and they have been narrowly tailored to meet the needs of Reclamation’s mission. Uniform, Department-wide Pub. L. 93-638 procedures are outside of the scope of the Reclamation Manual. | None. |
| Chickasaw Nation | General | Over all, the Bureau of Reclamation’s effort to develop a more official or formal process of developing cooperative agreements and contracts with tribes under P.L. 93-638, appear consistent with other self-determination language authorizing Bureau of Indian Affairs and Indian Health Services contracts and funding agreements. | The D&S is intended to be consistent with the Pub. L. 93-638 statutory and regulatory processes for entering into and administering self-determination contracts and self-governance Annual Funding Agreements (AFAs). | None. |
| Chickasaw Nation | 4.C.(4); 5.A.; and 6.A. | In review of the content, the Chickasaw Nation has a number of considerations; first is that of the role of the Awarding Official and Awarding Official Technical Representative (AO/AOTR): Will the compacting or contracting tribe be involved in the selection of the representative? | The appointment of the AO and AOTR is an internal federal responsibility. However, Reclamation is receptive to receiving input and feedback from tribes during the administration of self-determination contracts and self-governance AFAs. | None. |
| Chickasaw Nation | 6.B. | Will the AOTR be required the technical knowledge relevant to the needs of the tribe? | The individuals appointed to serve as an AOTR will have sufficient technical knowledge to ensure that self-determination contracts and self-governance AFAs are implemented and monitored in accordance with the statutory and regulatory framework under Pub. L. 93-638. | None. |
| Chickasaw Nation | 8.A. | Another consideration has to do with clarity of programs eligible for compacting/contracting; there are no examples provided, and the text provides only reference to other ambiguous language, such as “Regions shall consult with NAIAO or the Solicitor’s Office on issues regarding whether a project is | The eligibility provision in the D&S is based on the language provided in the cited sections of the Pub. L. 93-638 statute and regulations. Also, it is not possible or appropriate to specifically identify in the D&S all of the projects or programs that may be eligible for inclusion in self-determination | None. |

¹ The comments are verbatim, as submitted.

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| | | eligible under Pub. L. 93-638” (RM8A). Although the Federal Register is the Federal Agencies’ and Bureaus’ mechanism for announcing specific eligible programs each year, identifying those programs eligible by policy will allow tribes the ability to plan ahead more strategically. | contracts or self-governance AFAs. Eligible Reclamation’s projects or programs are subject to change, based on project or program authorizations and appropriations. If a region is uncertain whether a project or program is eligible, the region is required to consult with the NAIAO or the Solicitor’s Office to determine eligibility. | |
| Chickasaw Nation | 3.I. and 3.J. | Finally, it has always been a matter of concern regarding how “Indian” is defined. The draft language does stipulate the person be a member of an Indian tribe, but does not state whether the said tribe must be federally recognized. | The definitions for “Indian” and “Indian Tribe or Tribe” are verbatim restatements of the definitions provided for those terms in the Pub. L. 93-638 statute and regulations. Those definitions acknowledge that Indian tribes with a recognized political relationship with the United States are “recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.” See 25 CFR 900.6 and 25 CFR 1000.2. | None. |
| Ten Tribe Partnership (Colorado River Basin Tribes) | General | We appreciate the effort to make the contracting process uniform within Reclamation; however, it would be most beneficial to tribes if the process for receiving funding under PL 93-638 were uniform within the Department of Interior. Most tribes are understaffed and overburdened with federal paperwork. The assistance offered to tribes by Reclamation will be more readily accessible if your requirements and forms are consistent with those required by the Bureau of Indian Affairs and other Interior Agencies. | The procedures in the D&S are consistent with the Pub. L. 93-638 statutory and regulatory processes and they have been narrowly tailored to meet the needs of Reclamation’s mission. Uniform, Department-wide Pub. L. 93-638 procedures are outside of the scope of the Reclamation Manual. | None. |